

ESTTA Tracking number: **ESTTA713570**

Filing date: **12/09/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	INTERENTAINMENT VENTURES, INC. DBA DEALISTIC.COM CORPORATION MINNESOTA
Granted to Date of previous extension	12/09/2015
Address	6881 158TH ST W APPLE VALLEY, MN 55124 UNITED STATES
Correspondence information	Kulseth Law PLLC DBA Mighty Marks PO Box 80793 Minneapolis, MN 55408 UNITED STATES matt@mightymarks.com Phone:855-698-6757

Applicant Information

Application No	86368032	Publication date	08/11/2015
Opposition Filing Date	12/09/2015	Opposition Period Ends	12/09/2015
Applicant	Rubicon SCG, LLC 425 W. North Ave Chicago, IL 60610 UNITED STATES		

Goods/Services Affected by Opposition


Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Marketing, namely, promoting the goods and services of others through retail discount offers, coupons, rebates, and exclusive items in the nature of goods and services of others that are not generally available; providing information about brands, services, and products in the form of reviews, price-comparisons, and promotional information; promoting special offers for the goods of others in providing advertising information about events, activities, venues, and travel destinations that are designed to promote the goods and services of others; advertising goods and services of others to consumers according to their preferences

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	On information and belief, Opposer has common law rights in the mark DEALISTIC! that have priority over the DEALIST mark of Applicant.

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4056355	Application Date	04/17/2011
Registration Date	11/15/2011	Foreign Priority Date	NONE
Word Mark	DEALISTIC!		
Design Mark			
Description of Mark	The mark consists of The wording DEALISTIC and a speech bubble containing an exclamation point.		
Goods/Services	Class 035. First use: First Use: 2011/01/20 First Use In Commerce: 2011/03/01 The bringing together, for the benefit of others, of a variety of goods and services, enabling customers to conveniently view and purchase those goods and services from an Internet web site particularly specializing in the marketing of the sale of goods and services of others		

Attachments	85297225#TMSN.png(bytes) USPTO. ESTTA. Notice of Opposition.pdf(216582 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Matthew Kulseth/
Name	Matthew Kulseth
Date	12/09/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Ser. No.: 86/368,032
Filed: December 9, 2015
For the mark DEALIST
Published in the Trademark Official Gazette on July 22, 2015

INTERENTAINMENT VENTURES, INC.)	
DBA DEALISTIC.COM CORPORATION MINNESOTA)	
Opposer,)	
)	
v.)	
)	Opposition No. _____
Rubicon SCG, LLC,)	
)	
Applicant,)	_____

NOTICE OF OPPOSITION

INTERENTAINMENT VENTURES, INC. DBA DEALISTIC.COM CORPORATION MINNESOTA ("Opposer") believes that it will be damaged by the registration of the mark shown in Application Serial No. 86/368,032 (the "Application") in International Class 35, and hereby opposes the same.

The grounds for opposition are as follows:

1. Rubicon SCG, LLC ("Applicant") seeks to register DEALIST as a standard character trademark without any other claim or limitation as to any particular font, style, design, size, or color, for "Marketing, namely, promoting the goods and services of others through retail discount offers, coupons, rebates, and exclusive items in the nature of goods and services of others that are not generally available; providing information about brands, services, and products in the form of reviews, price-comparisons, and promotional information; promoting special offers for the goods of others in providing advertising information about events, activities, venues, and travel destinations that are

designed to promote the goods and services of others; advertising goods and services of others to consumers according to their preferences” in International Class 35 (“Applicant’s Mark).

2. Applicant’s Mark was published for opposition in the Trademark Official Gazette on July 22, 2015. On October 9, 2015 the Board granted Opposer’s request to extend the time to oppose the registration of Applicant’s Mark until December 9, 2015. Thus this Opposition is timely filed.

3. Opposer is focused on providing an Internet commerce website that allows customers to view and purchase marketed goods and services. Opposer has adopted, has used, and continues to use the mark DEALISTIC!® in connection with its Internet commerce website, including providing services such as “The bringing together, for the benefit of others, of a variety of goods and services, enabling customers to conveniently view and purchase those goods and services from an Internet web site particularly specializing in the marketing of the sale of goods and services of others,” among other products.

4. Opposer has adopted and has continuously used the DEALISTIC!® mark in connection with apparel goods since at least as early as March 1, 2011.

5. In addition to owning extensive and strong common law rights in the DEALISTIC!® mark, Opposer is the owner of record for United States Trademark Registration No. 4,056,355 for the mark DEALISTIC!® in connection with “The bringing together, for the benefit of others, of a variety of goods and services, enabling customers to conveniently view and purchase those goods and services from an Internet web site particularly specializing in the marketing of the sale of goods and services of

others” falling within International Class 35, claiming a first use date at least as early as March 1, 2011. The Registration was issued on the Principal Register on November 15, 2011.

6. The services upon which Applicant seeks to apply its proposed DEALIST mark are unrestricted as to channels of trade, and they are highly similar and/or closely related to Opposer’s services offered under its DEALISTIC!® mark, and would travel and be promoted through the same or overlapping channels of trade as the services offered under Opposer’s DEALISTIC!® mark.

7. Applicant’s proposed DEALIST mark so resembles Opposer’s DEALISTIC!® mark as to be likely, when used on or in connection with the unrestricted and broadly-worded services described in Paragraph 1, to cause confusion, mistake, or to deceive.

8. Applicant’s proposed DEALIST is nearly identical to Opposer’s DEALISTIC!® mark in that the dominant and most distinctive portions of the marks, “DEALIST” are nearly identical, only differing by two letters and an exclamation point. The insignificant difference of the letters “IC” after the word “DEALIST” in Applicant’s mark and the singular word ”DEALISTIC!” in Opposer’s mark are insufficient to avoid a likelihood of confusion as to the marks in their entireties. The net effect of this similarity is to stimulate recall of and likely confusion with Opposer’s DEALISTIC!® mark.

9. Given the clear visual, phonetic, and connotative similarities between the distinctive elements of the marks in question, and nearly identical and overlapping nature of the services offered under the respective marks, those in the relevant public are likely to mistakenly believe that the services Applicant proposed to offer in the United States under the proposed DEALIST mark are sponsored, endorsed or approved by Opposed, or


are in some way affiliated, connected, or associated with Opposer, all to the detriment of Opposer. Registration of the Application should therefore be refused under 15 U.S.C. §1052(d) and 1063.

10. Registration of the proposed DEALIST would additionally be a source of damage to Opposer as it would confer upon Applicant various statutory presumptions to which it is not entitled in view of Opposer's prior use and registration of the DEALISTIC!® mark.

WHEREFORE, Opposer respectfully requests that the Trademark Trial and Appeal Board sustain its opposition, refuse registration of Application Serial No. 86/368,032, and grant any other relief that may be just and equitable.

Kulseth Law P.L.L.C. DBA Mighty Marks

Dated: December 9, 2015


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ATTORNEY FOR OPPOSER
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